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State investigation of IBP meat packing plant is concluded

OLYMPIA – The conclusion of an 11-month inquiry into alleged violations of humane slaughter, worker safety and food safety laws at the IBP, Inc. beef packing plant in Wallula was announced today by Jim Jesernig, director of Agriculture; Gary Moore, director of Labor and Industries; and Attorney General Christine Gregoire.

Gov. Gary Locke initiated the investigation in response to a petition, affidavits and a video submitted by the Humane Farming Association and 11 other groups alleging that animals were being improperly handled at the IBP plant. The Department of Agriculture was instructed to assemble an investigative team that also included the Department of Labor and Industries and the Washington State Patrol. The Attorney General's Office, U.S. Department of Agriculture's Food Safety and Inspection Service, and Walla Walla County Prosecutor's Office were also asked to participate.

The Washington State Patrol investigated the allegations of criminal violations of the humane slaughter and animal cruelty laws on behalf of the investigative team. The results were turned over to Walla Walla County prosecutor Jim Nagle, as provided in state law. Nagle, assisted by a group of other prosecuting attorneys, reviewed the case and determined there was not sufficient evidence to bring criminal charges.

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Nagle was especially impressed by a comparison video prepared by investigators, which shows sequences from the five-minute videotape provided with the petition side-by-side with portions of unedited video footage obtained during the investigation. The short videotape appears to have been edited to delete footage showing that IBP employees promptly corrected several “bad acts.”

In a separate development, an agreement was reached between the state Department of Agriculture and IBP that allows the department to monitor animal slaughtering practices at IBP’s Wallula plant. The company also agreed to cooperate with Agriculture’s goal of improving livestock handling practices at the plant. Under the agreement, Department of Agriculture staff will be allowed immediate, unannounced access to the IBP plant. Among other things, the department will verify that IBP:

- Continues existing training programs for employees and supervisors responsible for handling live animals. These programs address stunning, handling live animals, signs of sensibility in animals, and legal requirements for handling live animals.
- Continues hands-on training for stunners to ensure that only experienced, well-trained employees carry out stunning operations.
- Implements a training program to educate employees down the line from stunning and sticking operations on signs of sensibility in animals.

The agreement allows the Department of Agriculture to inspect relevant IBP records and videotapes. It is effective through Sept. 30, 2002 and can be extended.

In response to allegations of worker safety violations, the Department of Labor and Industries conducted an extensive review of the IBP plant and its operations in February 2001. The inspection team included two industrial hygienists who spent four days on-site, and two safety and health specialists who spent three days on-site. No violations were found related to the allegations in the petition. Six serious violations of worker safety laws were identified in other parts of the plant, and \$8,960 in penalties was assessed.

Labor and Industries reported that, while the findings are significant, particularly in relation to the exposed employees, they are not extraordinary in an operation this size. In addition to the investigation, L&I has continuing responsibility to investigate worker complaints and conduct worker safety compliance inspections.

The U.S. Department of Agriculture has inspectors in the plant whenever it is operating to enforce food safety standards. USDA did not note any significant food safety violations during the investigation period.

Gov. Locke thanked the task force members for their hard work on the case. “This investigation required months of work and I appreciate the dedication demonstrated by team members from the state and federal governments. I’d also like to thank Prosecuting Attorney Jim Nagle and his staff.”

“The accusations brought forward were very serious,” Locke said. “The case report indicates a thorough investigation. I believe that the agreement reached between the Department of Agriculture and IBP, after the investigation was concluded, will well serve the public interest.”

Jesernig, Moore and Gregoire all expressed support for the decision of the Walla Walla County Prosecuting Attorney. “The Washington State Patrol did an outstanding job on a difficult case,” Jesernig said, “Our agreement was designed to address concerns about the humane treatment of animals during slaughter, whether criminal charges were filed or not. Under the agreement, we will be monitoring the situation at IBP to help ensure animals are properly handled.”

For more information about the IBP investigation, visit the Department of Agriculture’s Web site at <http://www.wa.gov/agr/>.

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Note to editors: Frequently asked questions about the IBP Investigation are attached.

IBP Investigation Frequently asked questions

Q. What were the allegations against IBP?

On May 31, 2000, the Humane Farming Association and 11 other groups presented a “Petition for Enforcement of the Humane Slaughter and Animal Cruelty Laws” to the Washington Attorney General and the Director of Agriculture. The petition alleged that cattle at the IBP beef processing plant were being slaughtered inhumanely, that meat was being contaminated during processing, and that workers were being injured as a result of the plant’s processing practices.

With the petition were a number of worker statements and a five-minute videotape depicting apparent violations of federal and state humane slaughter laws.

Q. How did the state respond?

Because of the variety and complexity of the allegations, Governor Locke instructed the state Department of Agriculture to form an intergovernmental, multi-agency team to review the allegations. The team included the Washington departments of Agriculture and Labor and Industries; the Washington Attorney General’s Office and the Washington State Patrol. The U.S. Department of Agriculture’s Food Safety and Inspection Service (USDA-FSIS) and the Walla Walla County prosecuting attorney also participated, the latter as a result of the local prosecutor’s criminal jurisdiction over such a matter.

Why did the investigation take so long?

Several factors contributed to the length of the investigation.

The allegations of inhumane slaughter, worker safety and food safety raised complex issues of jurisdiction and role. This required the participating agencies to free up sufficient staff and coordinate their efforts. Because the inhumane slaughter allegations implicated criminal statutes, that portion of the investigation could only be conducted by a law enforcement agency with appropriate jurisdiction.

Persons representing the petitioners initially offered to assist in the investigation by arranging interviews with witnesses and providing additional evidence. However, these persons then demanded that task force agencies grant immunity to potential witnesses as a condition of their cooperation. Because a grant of immunity at the outset of a criminal investigation inevitably calls into question the investigation’s results, this request was declined and the investigation proceeded without outside assistance. Nevertheless, these discussions took time in and of themselves.

Despite investigator's repeated requests for all relevant evidence to be produced, the persons representing the petitioners waited more than three months to provide the task force with additional evidence bearing on the investigation. This evidence was apparently in the petitioners' possession even before the petition was submitted. Although the investigation proceeded along other lines, the failure to provide relevant evidence in a timely manner caused significant delay.

All the task force agencies were forced to periodically divert limited resources to answer public inquiries and correct misunderstandings created by activist public relations and fund-raising efforts. For example, full-page newspaper ads placed by Humane Farming Association and others contained inaccurate, misleading information about the investigation, issues of jurisdiction, and the lawful roles of task force member agencies.

All task force members take the allegations very seriously and have expended considerable resources toward conducting a thorough, objective, and impartial investigation. As of mid-April 2001, the state had devoted more than 1,200 hours at a cost of at least \$56,000 to investigate the inhumane slaughter allegations.

Allegations of inhumane slaughter

Q. How are state humane slaughter and animal cruelty laws enforced?

The state Department of Agriculture is authorized to administer state law on the humane slaughter of livestock. However, violations of this law are misdemeanors and must be investigated by law enforcement personnel, with a referral to the country prosecutor if appropriate.

Only law enforcement agencies and animal care and control agencies are authorized to enforce state law on the prevention of cruelty to animals. These agencies include local police, sheriff offices and the State Patrol, but not the Department of Agriculture or the Attorney General's Office. Violations of the animal cruelty law carry criminal and civil penalties.

Q. How was the investigation of inhumane slaughter conducted?

Because violations of criminal statutes had been alleged, the Washington State Patrol took the lead in conducting the investigation. An experienced, Spanish-speaking detective was assigned as the primary investigator.¹ The state veterinarian, U.S. Department of Agriculture compliance officers, and other Washington State Patrol personnel also participated. The investigators reviewed all of the materials provided with the petition. They visited the IBP plant, reviewed company records, and interviewed company officials, employees, former employees and others with knowledge of the facts or with relevant expertise.

¹ Many, if not most, IBP-Pasco employees who handle live animals are native Spanish speakers.

Q. What happened after the investigation report was forwarded to the prosecuting attorney?

Given the high profile nature of the IBP allegations, the Walla Walla County prosecuting attorney asked four other prosecutors their opinions on the viability of prosecution based on the State Patrol's report and the supporting materials. Under consideration were first degree animal cruelty, violations of the humane slaughter law, and the standards that must be met to prove a corporation is liable for a crime.

The Walla Walla County prosecutor found there was insufficient evidence to bring criminal charges against IBP. There was no evidence the alleged offenses were solicited or tolerated by IBP. Further, the prosecutor found that the acts in question were not done by employees in the course of employment.

Q. Doesn't the videotape prove the allegations of inhumane slaughter?

The five-minute videotape provided with the petition and the excerpts shown on TV appears to be edited from more than three hours of tape. The five-minute video depicted apparent violations of state and federal humane slaughter laws. Investigators later received another videotape from persons representing the petitioners. Investigators determined that this 3½ hour videotape was the source of the material included in the five-minute video.

In comparing the same sequence of events on the two videotapes, it was determined that the five-minute video had been edited to delete workers' actions to correct problems encountered during the stunning process. In four separate instances, the unedited video showed IBP workers acting within seconds to re-stun any animal that exhibited signs of sensibility. The edited five-minute video omitted these actions leaving viewers with the impression that a sensible animal was moving along the processing line without regard to its state of consciousness.

Investigators also interviewed witnesses about other acts depicted in the videotapes. Witnesses stated that an animal seen being dragged with a chain had been stunned and was insensible when it was dragged. Witnesses also stated that a sequence showing problems with stunning operations was because of a malfunctioning captive bolt gun.

Q. Does the footage from the unedited videotape put to rest all of the incidents depicted in the tape that was broadcast last May?

Some actions shown on the videotape were not significantly different on the unedited tape. In one of these sequences a worker at the knocking box repeatedly prods a live cow in the mouth. In another sequence, the air gate between the knocking boxes is raised and lowered several times on a live cow's neck. An individual was identified during the investigation with respect to the prod incident, but that person no longer works for IBP and has not been located. No specific evidence has come to light on the air gate incident.

Q. What will IBP do to improve compliance with applicable regulations?

On April 10, IBP signed an agreement allowing the state Department of Agriculture to monitor animal slaughter conditions and practices at the plant through September 2002. This agreement is significant because IBP is a federally inspected plant. Without the agreement IBP is not obligated to allow the state Department of Agriculture access to its plant or to carry out any improvements to its practices or premises. The agreement allows state Agriculture representatives to conduct unannounced inspections of IBP's Wallula premises.

In addition, the agreement requires IBP to:

- Improve employee and supervisor training
- Set up protocols and practices for managing employees who handle live animals
- Maintain its video monitoring program
- Provide the state Department of Agriculture with plans and specifications for future modifications to the stunning area

Allow state Agriculture representatives to inspect relevant IBP records and videotapes.

Q. Why was this matter referred to a county prosecuting attorney instead of being handled by the Attorney General?

Although the petition was addressed to the Attorney General's Office, in Washington the attorney general investigates or prosecutes crimes only under limited circumstances, none of which were present in this instance. Therefore, any prosecution would have to originate with the Walla Walla County prosecuting attorney. The Attorney General's Office role in this matter was to provide legal advice to the state agency members of the team.

Allegations of worker safety violations

Q. Were worker safety violations found?

The Department of Labor and Industries investigated charges that workers were being injured as a result of the plant's processing practices. No serious violations were noted involving the stunning area. Violations were documented and penalties were assessed in other areas, but these were not related to the allegations in the petition.

Two serious violations were documented related to employee use of a chemical disinfectant/cleaner without eye or hand protection. The total penalty for these two violations is \$560. Inspectors also found a guarding violation on a band saw used for cutting ribs, a guarding violation for a conveyor in the hamburger room, and two violations related to the vertical lifeline in the upper engine room. The total penalty for these four violations is \$8,400, making a total penalty just under \$9,000. The review of all the required written programs identified no violations.

Allegations of food safety violations

Q. Were food safety violations found?

IBP is a federally inspected meat processing facility. The U.S. Department of Agriculture investigated charges that meat was being contaminated during processing. USDA inspectors have an on-going presence at IBP where they inspect meat for contamination and are authorized to enforce the federal humane slaughter laws. No significant violations of food safety laws were noted during the period of the investigation, and no administrative actions were taken.

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